

UNITED STATES DISTRICT COURT

Southern District of California

Office Of The Clerk
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W. Samuel Hamrick, Jr.,
Clerk of Court

June 11, 2008

Clerk, U.S. District Court
Central District of California, Western Division
312 North Spring Street
Los Angeles, CA 90012-4701

Re: Charles Clark v. Kathy Prosper, Case No. 3:08-cv-00989-W-RBB

Dear Sir or Madam:

Pursuant to Order transferring the above-entitled action to your District, we are electronically transmitting herewith our entire original file.

Sincerely yours,

W. Samuel Hamrick, Jr.,
Clerk of the Court

By: s/ A. Everill, Deputy Clerk

Copy to Attorney for Plaintiffs:
Copy to Attorney for Defendants:

FILED
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CLERK, U.S. DISTRICT
SOUTHERN DISTRICT OF CALIFORNIA
BY: *EC*
DEPUTY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

CHARLES CLARK,
Petitioner,
vs.
KATHY PROSPER, Warden, et al.,
Respondents.

Civil No. 08cv0989-W (RBB)

**ORDER TRANSFERRING ACTION
TO UNITED STATES DISTRICT
COURT FOR THE CENTRAL
DISTRICT OF CALIFORNIA,
WESTERN DIVISION**

Petitioner, a state prisoner proceeding pro se, has filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner challenges a conviction from the Los Angeles County Superior Court. In accordance with the practice of district courts in California, the Court transfers the Petition to the United States District Court for the Central District of California, Western Division.

A petition for writ of habeas corpus may be filed in the United States District Court of the judicial district in which the petitioner is presently confined or the judicial district in which he was convicted and sentenced. See 28 U.S.C. § 2241(d); Braden v. 30th Judicial Circuit Court, 410 U.S. 484, 497 (1973). Petitioner here attacks a conviction suffered in the Los Angeles County Superior Court. (Pet. at 1.) That court is located in Los Angeles County, which is within the jurisdictional boundaries of the United States District Court for the Central District of California, Western Division. See 28 U.S.C. § 84(c)(2). Petitioner is presently confined at the California Correctional Center in Susanville, California. That prison is located in Lassen

1 County, which is within the jurisdictional boundaries of the United States District Court for the
 2 Eastern District of California. See 28 U.S.C. § 84(b). Jurisdiction over this Petition thus exists
 3 in the Central District, Western Division, and in the Eastern District. See 28 U.S.C. § 2241(d).

4 Although this Court does not have jurisdiction over the action, “[u]nder a provision of
 5 the Federal Courts Improvement Act, 28 U.S.C. § 1631, if a court finds that there is a want of
 6 jurisdiction the court shall transfer the action to any other such court in which the action could
 7 have been brought ‘if it is in the interest of justice.’” Miller v. Hambrick, 905 F.2d 259, 262 (9th
 8 Cir. 1990) (citing In re McCauley, 814 F.2d 1350, 1351-52 (9th Cir. 1987)). The Ninth Circuit
 9 has held that transferring a habeas corpus proceeding to a district with proper jurisdiction will
 10 be in the interest of justice because normally dismissal of an action that could be brought
 11 elsewhere is “time-consuming and justice-defeating.” Miller, 905 F.2d at 262 (quoting
 12 Goldlawr, Inc. v. Heiman, 369 U.S. 463, 467 (1962). Therefore, pursuant to 28 U.S.C. § 1631,
 13 this Court may transfer this proceeding to a district with proper jurisdiction under 28 U.S.C.
 14 § 2241(d). It is generally the practice of the district courts in California to transfer habeas
 15 actions challenging a state conviction to the district in which a petitioner was convicted. Any
 16 and all records, witnesses and evidence necessary for the resolution of a petitioner’s contentions
 17 are more readily available in that district. See Braden, 410 U.S. at 497, 499 n.15; Laue v.
 18 Nelson, 279 F. Supp. 265, 266 (N.D. Cal. 1968). In this case, that district is the Central District
 19 of California, Western Division. Therefore, in the furtherance of justice,

20 **IT IS ORDERED** that the Clerk of this Court transfer this matter to the United States
 21 District Court for the Central District of California, Western Division. See 28 U.S.C. § 2241(d).

22 **IT IS FURTHER ORDERED** that the Clerk of this Court serve a copy of this Order
 23 upon Petitioner and upon the California Attorney General.

24 DATED: 6/5/08


 Hon. Thomas J. Whelan
 United States District Judge

25
 26 CC: ALL PARTIES
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